

UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION



DAVID A. STEBBINS

PLAINTIFF

VS

CASE NO. 1:14-cv-00961

EDUCAP, INC., MORGAN DOUGHTY  
NICHOLAS HOOD, RICHARD HOOD  
HOOD & STACY, P.A.

DEFENDANT

**MOTION AND INCORPORATED BRIEF THEREOF TO RESTRICT ORAL  
ARGUMENTS AND FOR LEAVE TO PARTICIPATE IN ORAL ARGUMENTS BY  
PHONE**

Comes now, *pro se* Plaintiff David Stebbins, who hereby submits the following Motion for an accommodation, in light of Plaintiff's financial status.

1. Plaintiff has been granted leave to proceed *in forma pauperis* in this case. See Doc. 5. Therefore, this Court knows that Plaintiff is entirely indigent. Please make sure to read ¶ 12 of this Motion, just in case there may be some other consolation the Court can offer Plaintiff.
2. However, on Saturday, August 30, 2014, Plaintiff was reading the Local Rules for the Eastern District of Virginia, so he could be prepared for this case.
3. In these Local Rules, Plaintiff found Rule 7(E), which stated, in pertinent part, the following:
  - (a) If Plaintiff files a motion, he must have the motion set for oral argument within thirty (30) days after it gets filed.
  - (b) The motion is deemed withdrawn if not set for oral argument within thirty days.
4. Plaintiff does not have the funds to come to Virginia for anything except the trial. In fact, Plaintiff does not even have a *vehicle*, right now! Yes, the only way Plaintiff will be able to even come to Virginia for the *trial* is by obtaining a ride from one of the Harrison-based

witnesses who will testify in Plaintiff's behalf in this case.

5. Mind you, the odds of this case not being resolved on summary judgment are slim.

Plaintiff is basing his claim off of acts which are public record, here in Arkansas. Once this case gets underway, and once the 26(f) Conference is completed, Plaintiff will likely file a motion for partial summary judgment immediately, providing certified records of the Arkansas lawsuit the Defendants filed against him, and proving that, at the very least, to pass judgment pursuant to the legal argument made in ¶¶ 22-23 of the Complaint in this case (Doc. 1).

6. However, that still requires that at least one motion – filed by the Plaintiff, for that matter – be set for hearing, or disposed of without hearing.

7. Without any witnesses for Plaintiff to grab a ride from, Plaintiff would have to make the journey on his own, and he simply cannot do that right now. At least not until this aforementioned Motion for Partial Summary Judgment is granted (with a Rule 54(b) Certificate, to boot).

8. To accommodate Plaintiff's financial status, Plaintiff asks that the Court make the following reasoning accommodations for Plaintiff:

(a) That the Court always try to resolve all motions in this case without an oral argument, if at all possible.

(b) That, if an oral argument is unavoidable, that Plaintiff be allowed to participate in the oral argument by phone.

9. In the alternative, Plaintiff would not object if the Court were to appoint counsel in this case, pursuant to its authority under 28 USC § 1915(e)(1). Plaintiff is simultaneously filing an "Alternative Motion for Appointment of Counsel," so perhaps that Motion could be granted instead.

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10. The privilege to participate in oral arguments by phone is, in Plaintiff's humble opinion, a reasonable accommodation, for the reasons set forth below:

(a) Plaintiff is willing to bear the responsibility of making the call. As long as the Court provides Plaintiff with a phone number, he can make the call.

(b) Plaintiff has a webcam and a Skype application (the Court's IT Department can tell you about Skype, if the Judges do not already know), so there is a way the Court can *see* Plaintiff's body language, if it needs to.

(c) The Local Rules specifically allow the parties – not the Court, but the parties – to submit the motion to the Court without oral argument. Thus, the Court obviously believes that nearly every motion could be resolved without oral argument if the parties so choose.

(d) Also, since the parties can, mutually, submit motions to the Court without oral argument, the Court could probably impose a Rule 11(c) Sanction on the Defendants if they tried to set a motion for hearing *without* allowing Plaintiff to participate by phone. Couldn't the Court simply make the finding that such an attempt by the Defendant constituted an attempt to “needlessly increase the cost of litigation?” *Especially* if it appears that an oral argument is only necessary because they themselves would not give sufficient detail in their written filings? Wouldn't that appear as the sort of thing a Defendant – especially a Defendant whose back is to the wall, such as in this case (after all, Plaintiff has *public records* to prove his case) – would do in a *deliberate attempt* to get the case thrown out on a technicality?

11. Therefore, Plaintiff asks that this Court have some courtesy for Plaintiff's current financial status, and do its best to accommodate Plaintiff. Plaintiff is willing to accommodate the Court to the extent he is physically able; he only asks that the Court do the same for him.

12. Defendant's proposed testimony is not credible.

Defendant's proposed testimony is not credible because it is inconsistent with the evidence.

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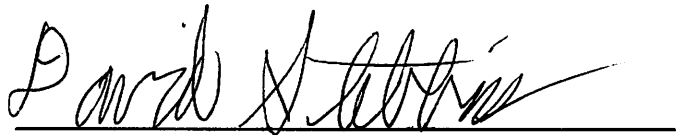
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12. Of course, there is always the possibility that Plaintiff – being a *pro se* litigant – may have completely misread the Local Rules. Perhaps Plaintiff can arrange for resolution of a motion without oral argument, without the consent of the opposing party. Perhaps the opposing party may be *required* to cooperate with Plaintiff's attempts to submit motions to the Court without a hearing (in much the same way they are *required* to cooperate with Plaintiff's legitimate discovery requests). If Plaintiff has misinterpreted this Local Rule, then the Court, in denying this Motion, need only explain the Local Rule's true meaning to Plaintiff.
13. Wherefore, premises considered, Plaintiff respectfully requests that he be given leave to participate in any oral arguments in this case by phone.
14. So requested on this, the 3<sup>rd</sup> day of September, 2014.

A handwritten signature in black ink, appearing to read "David Stebbins", is written over a horizontal line.

David Stebbins  
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870-204-6516  
[stebbinsd@yahoo.com](mailto:stebbinsd@yahoo.com)